

EXHIBIT 5

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

GOOGLE LLC,

Plaintiff,

v.

SONOS, INC.,

Defendant.

Case No. 3:20-cv-6754

**SONOS, INC.'S FIRST RULE 30(B)(6)
NOTICE OF DEPOSITION OF
GOOGLE LLC**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6),
3 Defendant Sonos, Inc. ("Sonos") will take the deposition upon oral examination of Plaintiff
4 Google LLC ("Google"). The deposition will commence on February 3, 2022, at 9:00 a.m., at the
5 offices of Lee Sullivan Shea & Smith LLP, located at 656 W Randolph Street, Floor 5W,
6 Chicago, Illinois 60661, or at another date, time, and/or location agreed upon by counsel.
7 Pursuant to Rule 30(b)(6), Google shall designate one or more of its officers, directors, managing
8 agents, or other persons to testify on its behalf as to matters known or reasonably available to
9 Google concerning the subjects identified in Appendix A attached hereto.

10 PLEASE TAKE FURTHER NOTICE that the deposition will be taken upon oral
11 examination, under oath, before a certified court reporter and will continue from day to day until
12 completed. The deposition will be recorded by audio, video, and/or stenographic means. The
13 deposition may be taken using video conferencing technology or other agreed upon remote
14 means.

15 Sonos requests that Google identify in writing in advance of the deposition the person(s)
16 designated by Google to testify on its behalf, the job title of such person(s), and the topic(s) on
17 which each such person(s) will testify.

18
19 Dated: January 5, 2022

ORRICK HERRINGTON & SUTCLIFFE LLP
and
LEE SULLIVAN SHEA & SMITH LLP

21 By: /s/ Cole B. Richter
22 Cole B. Richter (admitted *pro hac*)

23 *Attorneys for Sonos, Inc.*
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DEFINITIONS

The Deposition Topics in this Appendix are subject to and incorporate the following definitions:

1. “Defendant” or “Sonos” means Defendant Sonos, Inc.
2. “Plaintiff” or “Google,” as well as “You,” “Your,” and “Yours,” means Plaintiff Google LLC, including, without limitation, its agents, officers, employees, representatives, or any Person acting on their behalf, and also includes any corporate subsidiaries, parents, or other affiliated corporations.
3. “Cast-Enabled Media Player(s)” means Google’s Chromecast, Chromecast Ultra, Chromecast Audio, Chromecast with Google TV, Home Mini, Nest Mini, Home, Home Max, Home Hub, Nest Hub, Nest Hub Max, Nest Audio, and Nest Wifi Point media players individually and collectively.
4. “Cast-Enabled Display(s)” means Google’s Home Hub, Nest Hub, and Nest Hub Max media players individually and collectively.
5. “Pixel Device(s)” means Google’s “Pixel” branded smartphones, tablets, and other computer devices, including but not limited to, the Pixel, Pixel XL, Pixel 2, Pixel 2 XL, Pixel 3, Pixel 3 XL, Pixel 3a, Pixel 3a XL, Pixel 4, Pixel 4 XL, Pixel 4a, Pixel 4a (5G), Pixel 5, Pixel 5a (5G), Pixel 6, and Pixel 6 Pro phones, the Pixel Slate tablet, and the Pixelbook and Pixelbook Go laptops individually and collectively.
6. “Accused Cast-Enabled App(s)” means the YouTube app, YouTube Kids app, YouTube Music app, YouTube TV app, Google Play Music app, Google Podcasts app, and Spotify app accessible via either an app store or Chromecast-enabled site URL¹ (including youtube.com, music.youtube.com, tv.youtube.com, and spotify.com) individually and collectively.
7. “Accused Instrumentality” means any product, including variants and substantially similar products, identified pursuant to Patent L.R. 3-1(b) in Sonos’s October 21,

¹ See, e.g., <https://support.google.com/chromecast/answer/3265953?hl=en>.

2021 Disclosure of Asserted Claims and Infringement Contentions or any amendment to Sonos's Disclosure of Asserted Claims and Infringement Contentions.

8. "Accused Functionalities" means:

(i) Any and all functionalities that facilitate creating a "speaker group" using the Google Home app and playing media (e.g., music) from the speaker group, where the term "speaker group" has the meaning used by Google. *See, e.g.,*

<https://support.google.com/googlenest/answer/7174267>:

Create and manage speaker groups

Group any combination of Google Nest or Home speakers and displays and Chromecast devices together for synchronous music throughout the home. Your music and audio from Chromecast-enabled apps are instantly available to stream.




Compatible devices include Google Home, Google Nest Mini (2nd gen), Google Home Mini (1st gen), Google Home Max, Google Nest Audio, and Google Nest displays, Google Nest Wifi point, Chromecast with Google TV, Chromecast, Chromecast Ultra, Chromecast Audio, and devices with Chromecast built-in.

Note: This feature is not supported on Chromecast (1st gen).

Android iPhone & iPad

Step 1. Create and manage speaker groups



Create an audio group

1. Make sure your mobile device or tablet is [connected to the same Wi-Fi](#) or [linked to the same account](#) as your Chromecast, or speaker or display.
2. Open the Google Home app .
3. At the top left, tap Add  > **Create speaker group**.
4. Tap each device you want to add to the group. A check  will appear next to each device you select.
5. Tap **Next** > enter a name for your group > **Save**.

p on a computer device to transfer the playing of media (a) from the computer device to one or more Cast-Enabled Media Players and (b) from the one or more Cast-Enabled Media Players to the computer device, including but not limited to, any and all functionalities that facilitate the feature

Google refers to as “Casting.” *See, e.g.,* <https://support.google.com/googlenest/answer/7181830>:

Step 1. Cast from Chromecast-enabled apps to speaker or display

1. Make sure your mobile device or tablet is **connected to the same Wi-Fi network** or **linked to the same account** as your speaker or display.
2. Open a Chromecast-enabled app.
3. Tap the Cast icon .
4. Tap the speaker or display you'd like to cast to.
5. When you're connected, the Cast icon will turn from light to dark gray, and will let you know you're connected.
6. You can now cast audio and video to your speaker or display from your device.
7. To stop casting, at the top of your device, tap the Cast icon . In the box that appears, tap **Stop Casting**.

(iii) Any and all functionalities that facilitate transferring the playing of media (a) from a Cast-Enabled Display to one or more other Cast-Enabled Media Players and (b) from the one or more other Cast-Enabled Media Players to the Cast-Enabled Display, including but not limited to, any and all functionalities that facilitate the feature Google refers to as “Stream Transfer.”

See, e.g., <https://www.blog.google/products/google-nest/move-your-music-stream-transfer/>:

Stream transfer is a new feature that lets you easily move music, videos, podcasts and more between compatible devices in your home using your voice, the Google Home app or the touchscreen on your Nest smart display.

Here's how you can give it a try:

* * *

- **Move YouTube videos between your Nest smart display and Chromecast-enabled**


TV: Browse for your favorite YouTube videos on Nest Hub Max, and tap the cast control on the screen to move it to your Chromecast-connected TV. Or, say “Hey Google, play it on living room TV.”

- **Fill your home with music:** If you have more than one Google Home and Nest smart speaker or display, you can set up a speaker group in the Home App. Transfer music from a single speaker to the speaker group to fill your whole home with music.

See, e.g., <https://support.google.com/googlenest/answer/9563059>:



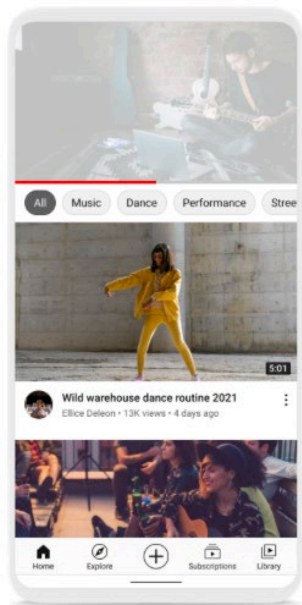
Google Nest Hub Max

1. On your Nest Hub Max's home screen, tap the active media card to bring up the media player.
2. At the bottom left corner of the screen, tap Devices  to find the list of available devices and speaker groups.
3. Select the device(s) to which you want to move your media.
4. Deselect the device(s) from which you want to move your media.

(iv) Any and all functionalities that facilitate a computer device or Cast-Enabled Media Player receiving and playing media in connection with any of the Accused Cast-Enabled Apps, including but not limited to, any and all functionalities that facilitate the feature Google refers to as “Up Next” and the feature Google refers to as “Autoplay.” *See, e.g.,*

<https://www.youtube.com/howyoutubeworks/product-features/recommendations/>:

The Up Next panel appears when you're watching a video. It suggests additional content based on whatever you're currently watching, alongside other videos that we think you may be interested in.



'Up next' videos on watch page

See, e.g., <https://support.google.com/youtube/answer/6327615>:

Autoplay videos

The Autoplay feature on YouTube makes it easier to decide what to watch next. When Autoplay is on, another related video will automatically play after a video ends.

9. “Cast-Related Revenue” means any revenue for Google that is related to, connected to, and/or promoted by the Accused Instrumentalities and/or Accused Cast-Enabled

Apps, including but not limited to, Google revenue from the sale of the Accused Instrumentalities and/or Accused Cast-Enabled Apps; Google revenue associated with Google's own subscription-based streaming media services (e.g., Google revenue associated with Google Play Music, YouTube Music Premium, and/or YouTube TV subscriptions) provided via the Accused Cast-Enabled Apps; Google revenue associated with third-party subscription-based streaming media services (e.g., Google revenue share associated with Spotify Premium, Pandora Plus, and/or Pandora Premium subscriptions purchased through the Google Play store) provided via the Accused Cast-Enabled Apps; Google revenue associated with advertisements provided via the Cast-Enabled Media Players and/or Accused Cast-Enabled Apps; Google revenue associated with searches initiated via the Cast-Enabled Media Players and/or the Accused Cast-Enabled Apps; Google revenue associated with in-app purchases made within the Accused Cast-Enabled Apps; Google revenue associated with ecommerce transactions initiated via the Cast-Enabled Media Players and/or Accused Cast-Enabled Apps; any Google revenue associated with consumer data collected via the Cast-Enabled Media Players, Accused Cast-Enabled Apps, and/or servers or cloud-based infrastructure identified by Sonos as Accused Instrumentalities (e.g., Google revenue associated with the sale of such consumer data and/or Google revenue associated with advertisements that target consumers based at least in part on such consumer data); and any Google revenue associated with the Accused Cast-Enabled App's use of the Google Cloud Platform (e.g., revenue associated with hosting the Accused Cast-Enabled Apps and/or related streaming media services and functionality, revenue associated with storing media associated with streaming media services provided via the Accused Cast-Enabled Apps, and/or revenue associated with storing user profiles associated with the Accused Cast-Enabled Apps).

10. The "'615 Patent" means United States Patent No. 9,967,615, dated May 8, 2018 and titled "Networked Music Playback."

11. The "'966 Patent" means United States Patent No. 10,469,966, dated November 5, 2019 and titled "Zone Scene Management."

12. The "'033 Patent" means United States Patent No. 10,779,033, dated September 15, 2020 and titled "Systems and Methods for Networked Music Playback."

1 13. The “’885 Patent” means United States Patent No. 10,848,885, dated November
2 24, 2020 and titled “Zone Scene Management.”

3 14. “Asserted Patent(s)” means the ’615 Patent, the ’966 Patent, the ’033 Patent, and
4 the ’885 Patent individually and collectively.

5 15. “Related Patent(s)” shall mean any patent or patent application individually and
6 collectively that (i) claims priority to any of the Asserted Patents, (ii) is identified as priority for
7 any of the Asserted Patents, or (iii) claims priority to any application which any of the Asserted
8 Patents claims priority. “Related Patent” includes, but is not limited to, all continuations or
9 continuations-in-part, provisionals, divisionals, and reissues of any of the Asserted Patents.

10 16. The term “Prior Art” shall refer to all publications, patents, physical devices,
11 prototypes, source code, products, manufactures, uses, sales, offers for sale, imports or other
12 activities concerning the subject matter of the Asserted Patents and existing on or occurring at a
13 date such as to be relevant under any subdivision of 35 U.S.C. §§ 102 or 103.

14 17. The term “Patent Laws” shall refer to Title 35 of the United States Code.

15 18. The term “infringe” or any variation thereof, including “infringing,”
16 “infringement” and “infringer,” shall refer to the commission of any act constituting
17 infringement under the Patent Laws, including but not limited to 35 U.S.C. § 271.

18 19. The term “instrumentality” shall mean any process, machine, manufacture or
19 composition of matter, or improvement thereof, within the meaning of the Patent Laws,
20 including 35 U.S.C. § 101.

21 20. “Communication(s)” shall mean, including its usual and customary meaning, any
22 transmission, conveyance or exchange of a word, statement, fact, thing, idea, document,
23 instruction, information, demand or question by any medium, whether by written, oral or other
24 means, including but not limited to, electronic Communications and electronic mail.

25 21. “Document(s)” shall have the broadest meaning ascribed to it by Federal Rule
26 of Civil Procedure 34 and Federal Rule of Evidence 1001, and shall include within its meaning
27 any and all papers, videotapes or video recordings, photographs, films, recordings, memoranda,
28 books, records, accounts, letters, telegrams, correspondence, notes of meetings, notes of

1 conversations, notes of telephone calls, inter-office memoranda or written Communications
2 of any nature, recordings of conversations either in writing or by means of any mechanical or
3 electrical recording device, notes, papers, reports, analyses, invoices, canceled checks or check
4 stubs, receipts, minutes of meetings, time sheets, diaries, desk calendars, ledgers, schedules,
5 licenses, financial statements, telephone bills, logs and any differing versions of the foregoing
6 whether denominated formal, informal or otherwise, as well as copies of the foregoing
7 which differ in any way, including handwritten notations or other written or printed matter
8 of any nature, from the original. The foregoing specifically includes the information stored in
9 any form, including electronic form, on a computer or in a computer database or otherwise,
10 including electronic mail. Moreover, the term “document” shall also include all “technical
11 documents,” such as source code, specifications, schematics, flowcharts, artwork, drawing,
12 pictures, pictorial representations, formulas, troubleshooting guides, service bulletins, technical
13 bulletins, production specification sheets, white papers, operator manuals, operation manuals and
14 instruction manuals.

15 22. “Thing(s)” refers to any physical specimen or tangible item, including research
16 and development models, samples, prototypes, and the like.

17 23. “Person(s)” refers to all natural persons and all types and kinds of business or
18 other entities, including but not limited to, corporations, limited liability companies, partnerships,
19 joint ventures, associations, sole proprietorships, government bodies and government agencies.
20 Any reference to an individual person, either singularly or as part of a defined group, includes
21 that person’s employees, agents, legal and non-legal representatives, heirs, successors, assigns
22 and any other person or entity acting on the behalf of such individual person. Any reference to a
23 corporation or any other entity also refers to and includes any and all parents, subsidiaries,
24 predecessors, successors, affiliates, partners, joint ventures, agents, employees, representatives,
25 accountants, investment bankers, consultants or attorneys acting on behalf of the corporation or
26 other entity. The masculine includes the feminine and vice versa; the singular includes the plural
27 and vice versa.

28 24. “Entity” or “Entities” means, including without limitation, corporation, company

1 firm, partnership, joint venture, association, governmental body or agency, or persons other than
2 a natural person.

3 25. The terms “relate to,” “reflecting,” “relating to,” or “concerning” or any variations
4 thereof, shall mean relating to, referring to, concerning, mentioning, reflecting, regarding,
5 pertaining to, evidencing, involving, describing, discussing, commenting on, embodying,
6 responding to, supporting, contradicting, or constituting (in whole or in part), or are between (as
7 in the context of Communications), as the context makes appropriate.

8 26. “And” and “or” shall be construed either disjunctively or conjunctively as
9 necessary to bring within the scope of each Deposition Topic all information that might otherwise
10 be construed outside the scope.

11 27. “Any” shall include “all” and “All” shall include “any.”

12 28. The term “including” shall mean including without limitation.

13 29. The use of the singular form of any word includes the plural and vice versa.

14 30. The use of any tense of any word includes all other tenses.

15 31. Definitions or usages of words or phrases in these Deposition Topics are not
16 intended to be, and shall not be, construed as admissions as to the meaning of words or phrases at
17 issue in the action, and shall have no binding effect on Sonos in this or in any other proceeding.

18 32. All Deposition Topics are for discovery purposes only and are not to be
19 construed as limiting or reflecting Sonos’s positions in this case.
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DEPOSITION TOPICS

TOPIC NO. 1

The design and operation of the Accused Functionalities, including:

(i) the design and operation of the aforementioned “speaker group” Accused Functionality² and source code that facilitates the same;

(ii) the design and operation of the aforementioned “Casting” Accused Functionality³ relating to, and source code that facilitates the same for, each of: (a) the YouTube app, (b) the YouTube Kids app, (c) the YouTube Music app, (d) the YouTube TV app, (e) the Google Play Music app, (f) the Google Podcasts app, and (g) the Spotify app;

(iii) the design and operation of the aforementioned “Stream Transfer” Accused Functionality⁴ relating to, and source code that facilitates the same for, each of: (a) the YouTube app, (b) the YouTube Music app, (c) the Google Play Music app, (d) the Google Podcasts app, and (e) the Spotify app;

(iv) the design and operation of a Cast-Enabled Media Player receiving and playing a sequence of media items (e.g., songs, videos, podcast episodes, etc.), individually and collectively with one or more other Cast-Enabled Media Players, in connection with, and source code that facilitates the same for, each of: (a) the YouTube media service, (b) the YouTube Kids media service, (c) the YouTube Music media service, (d) the YouTube TV media service, (e) the Google Play Music media service, (f) the Google Podcasts media service, and (g) the Spotify media service;

(v) the design and operation of a computer device, such as a Pixel device, receiving and playing a sequence of media items (e.g., songs, videos, podcast episodes, etc.) in connection with, and source code that facilitates the same for, each of: (a) the YouTube media service, (b) the YouTube Kids media service, (c) the YouTube Music media service, (d) the YouTube TV media service, (e) the Google Play Music media service, (f) the Google Podcasts media service,

² See *supra* Definitions at ¶ 8(i).

³ See *supra* Definitions at ¶ 8(ii).

⁴ See *supra* Definitions at ¶ 8(iii).

1 and (g) the Spotify media service;

2 (vi) the design and operation of the aforementioned “Up Next” Accused Functionality⁵
 3 relating to, and source code that facilitates the same for, each of: (a) the YouTube app, (b) the
 4 YouTube Kids app, (c) the YouTube Music app, (d) the YouTube TV app, (e) the Google Play
 5 Music app, and (f) the Google Podcasts app; and

6 (vii) the design and operation of the aforementioned “Autoplay” Accused Functionality⁶
 7 relating to, and source code that facilitates the same for, each of: (a) the YouTube app, (b) the
 8 YouTube Kids app, (c) the YouTube Music app, (d) the YouTube TV app, (e) the Google Play
 9 Music app, and (f) the Google Podcasts app.

10 **TOPIC NO. 2**

11 The sales, prices, costs (e.g., fixed and variable costs), revenues (e.g., all Cast-Related
 12 Revenues), downloads, installs, and profits (e.g., gross, operating, incremental, and net)
 13 associated with each Accused Instrumentality and Accused Cast-Enabled App from May 2018 to
 14 present.

15 **TOPIC NO. 3**

16 Google’s plans, strategies, projections, and forecasts for the sale and marketing of each
 17 Accused Instrumentality, Accused Cast-Enabled App, and Accused Functionality, including
 18 analyses relating to lifetime values, unit sales, unit downloads, unit installs, revenues (e.g., all
 19 Cast-Related Revenues), costs, profits, pricing, price negotiations, marketing strategy,
 20 competition, competitive analysis, economic and technical advantages, market segments, market
 21 share, market size, and customer base.

22 **TOPIC NO. 4**

23 Customer use, feedback, demand, surveys, comments, comparisons, and/or complaints
 24 relating to the Accused Functionalities.

27 ⁵ See *supra* Definitions at ¶ 8(iv).

28 ⁶ See *supra* Definitions at ¶ 8(iv).

1 Dated: January 5, 2022

2 ORRICK HERRINGTON & SUTCLIFFE LLP
3 *and*
4 LEE SULLIVAN SHEA & SMITH LLP

5 By: /s/ Cole B. Richter

6 Cole B. Richter (admitted *pro hac*)

7 *Attorneys for Sonos, Inc.*
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